



Montana Legislative History

Chapter: 530 Session L: 2023

Bill Number: House Bill 689

Checklist of Bill History

History and Final Status Sheet	x
Introduced Bill	X
Fiscal Note	X
Third Reading Bill	X
Final Version of Bill	X

House

Committee:

Judiciary

Hearing Date(s):

[February 27, 2023](#)
(Hearing)

[February 28, 2023](#)
(Executive Action)

Senate

Committee:

Judiciary

Hearing Date(s):

[March 22, 2023](#) (Hearing)

[March 29, 2023](#) (Executive Action)

Conference Committee

Hearing Date(s): n/a

Compiler Notes

Compiled by:

Sonia Gavin

Date: May 2, 2024

Notes: There are no summary minutes available for the committee hearings. The dates of the hearings are hyperlinks to the hearings.

(f) Railroad transportation properties in 15-6-145 are assessed based on the valuation formula described in 15-23-205.

(9) Land and the improvements on the land are separately assessed when any of the following conditions occur:

- (a) ownership of the improvements is different from ownership of the land;
- (b) the taxpayer makes a written request; or
- (c) the land is outside an incorporated city or town.

(10) For the purpose of this section, the term “compelling reason” includes but is not limited to the following:

- (a) there are no comparable sales in the neighborhood or subdivision;
- (b) the comparable sales model prepared by the department shows that the subject property cannot be valued using the market sales approach; or
- (c) other residential properties in the same neighborhood or subdivision are also valued using the cost approach and not the market sales approach.”

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to property tax years beginning January 1, 2023.

Approved May 18, 2023

CHAPTER NO. 530

[HB 689]

AN ACT REVISING LAWS RELATED TO PROBATION AND PAROLE;
ELIMINATING THE REQUIREMENT TO USE COMPLIANCE OR
NONCOMPLIANCE VIOLATIONS IN REQUESTS TO REVOKE PROBATION;
AND AMENDING SECTION 46-18-203, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-18-203, MCA, is amended to read:

“46-18-203. Revocation of suspended or deferred sentence.

(1) Upon the filing of a petition for revocation showing probable cause that the offender has violated any condition of a sentence, any condition of a deferred imposition of sentence, or any condition of supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4), ~~and describing the exhaustion and documentation in the offender’s file of appropriate violation responses according to the incentives and interventions grid adopted under 46-23-1028,~~ the judge may issue an order for a hearing on revocation. The order must require the offender to appear at a specified time and place for the hearing and be served by delivering a copy of the petition and order to the offender personally. The judge may also issue an arrest warrant directing any peace officer or a probation and parole officer to arrest the offender and bring the offender before the court.

(2) The petition for a revocation must be filed with the sentencing court either before the period of suspension or deferral has begun or during the period of suspension or deferral but not after the period has expired. Expiration of the period of suspension or deferral after the petition is filed does not deprive the court of its jurisdiction to rule on the petition.

(3) The provisions pertaining to bail, as set forth in Title 46, chapter 9, are applicable to persons arrested pursuant to this section.

(4) Without unnecessary delay and no more than 60 days after arrest, the offender must be brought before the judge, and at least 10 days prior to the hearing the offender must be advised of:

- (a) the allegations of the petition;
- (b) the opportunity to appear and to present evidence in the offender's own behalf;
- (c) the opportunity to question adverse witnesses; and
- (d) the right to be represented by counsel at the revocation hearing pursuant to Title 46, chapter 8, part 1.

(5) A hearing is required before a suspended or deferred sentence can be revoked or the terms or conditions of the sentence can be modified unless:

- (a) the offender admits the allegations and waives the right to a hearing; or
- (b) the relief to be granted is favorable to the offender and the prosecutor, after having been given notice of the proposed relief and a reasonable opportunity to object, has not objected. An extension of the term of probation is not favorable to the offender for the purposes of this subsection (5)(b).

(6) (a) At the hearing, the prosecution shall prove, by a preponderance of the evidence, that there has been a violation of:

- (i) the terms and conditions of the suspended or deferred sentence; or
- (ii) a condition of supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4).

(b) However, when a failure to pay restitution is the basis for the petition, the offender may excuse the violation by showing sufficient evidence that the failure to pay restitution was not attributable to a failure on the offender's part to make a good faith effort to obtain sufficient means to make the restitution payments as ordered.

(7) (a) If the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence ~~and the violation is not a compliance violation by committing either compliance violations, noncompliance violations, or both,~~ the judge may:

- (i) continue the suspended or deferred sentence without a change in conditions;
- (ii) continue the suspended sentence with modified or additional terms and conditions, which may include placement in:

- (A) a secure facility designated by the department for up to 9 months; or
- (B) a community corrections facility or program designated by the department for up to 9 months, including but not limited to placement in a prerelease center, sanction or hold bed, transitional living program, enhanced supervision program, relapse intervention bed, chemical dependency treatment, or 24/7 sobriety program;

(iii) revoke the suspension of sentence and require the offender to serve either the sentence imposed or any sentence that could have been imposed that does not include a longer imprisonment or commitment term than the original sentence; or

(iv) if the sentence was deferred, impose any sentence that might have been originally imposed.

(b) If a suspended or deferred sentence is revoked, the judge shall consider any elapsed time, consult the records and recollection of the probation and parole officer, and allow all of the elapsed time served without any record or recollection of violations as a credit against the sentence. If the judge determines that elapsed time should not be credited, the judge shall state the reasons for the determination in the order. Credit must be allowed for time served in a detention center or for home arrest time already served.

(c) If the judge finds that the offender has not violated a term or condition of a suspended or deferred sentence, the judge is not prevented from setting, modifying, or adding conditions of probation as provided in 46-23-1011.

~~(8) (a) Except as provided in subsection (8)(c), if the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence, that the violation is a compliance violation, and that the appropriate violation responses under the incentives and interventions grid have not been exhausted and documented in the offender's file, the judge shall notify the department and refer the matter back to the hearings officer:~~

~~(b) Except as provided in subsection (8)(c), if the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence, that the violation is a compliance violation, and that the appropriate violation responses under the incentives and interventions grid have been exhausted and documented in the offender's file, the judge may:~~

~~(i) continue the suspended or deferred sentence without a change in conditions; or~~

~~(ii) continue the suspended or deferred sentence with modified or additional terms and conditions, which may include placement as provided in subsection (7)(a)(ii).~~

~~(c) If the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence, that the violation is a compliance violation, and that the offender's conduct indicates that the offender will not be responsive to further efforts under the incentives and interventions grid, the judge may sentence the offender as provided in subsection (7).~~

~~(9)(8) If the judge finds that the prosecution has not proved, by a preponderance of the evidence, that there has been a violation of the terms and conditions of the suspended or deferred sentence, the petition must be dismissed and the offender, if in custody, must be immediately released.~~

~~(10)(9) All sanction and placement decisions must be documented in the offender's file.~~

~~(11)(10) As used in this section, the following definitions apply::~~

~~(a) "Absconding"~~

~~(a) "absconding" means when an offender deliberately makes the offender's whereabouts unknown to a probation and parole officer or fails to report for the purposes of avoiding supervision, and reasonable efforts by the probation and parole officer to locate the offender have been unsuccessful; and~~

~~(b) "Compliance violation" means a violation of the conditions of supervision that is not:~~

~~(i) a new criminal offense;~~

~~(ii) possession of a firearm in violation of a condition of probation;~~

~~(iii) behavior by the offender or any person acting at the offender's direction that could be considered stalking, harassing, or threatening the victim of the offense or a member of the victim's immediate family or support network;~~

~~(iv) absconding; or~~

~~(v) failure to enroll in or complete a required sex offender treatment program or a treatment program designed to treat violent offenders.~~

~~(b) "compliance violation" means a violation of the conditions of supervision that is not:~~

~~(i) a new criminal offense;~~

~~(ii) possession of a firearm in violation of a condition of probation;~~

~~(iii) behavior by the offender or any person acting at the offender's direction that could be considered stalking, harassing, or threatening the victim of the offense or a member of the victim's immediate family or support network;~~

~~(iv) absconding; or~~

(v) failure to enroll in or complete a required sex offender treatment program or a treatment program designed to treat violent offenders.

~~(12)~~(11) The provisions of this section apply to any offender whose suspended or deferred sentence is subject to revocation regardless of the date of the offender's conviction and regardless of the terms and conditions of the offender's original sentence."

Approved May 18, 2023

CHAPTER NO. 531

[HB 697]

AN ACT GENERALLY REVISING LAWS RELATED TO THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL; PROVIDING REPORTING REQUIREMENTS; REQUIRING AN INTERIM STUDY OF THE STAFFING, STRUCTURE, AND DUTIES OF THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL; PROVIDING THAT CERTAIN SPECIAL REVENUE ACCOUNT FUNDS ARE USED TO SUPPORT THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL; AMENDING SECTION 44-10-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Investigations report. Starting October 1, 2023, and each quarter after, the council shall provide a written report on pending investigations to the law and justice interim committee in accordance with 5-11-210. The report must protect the privacy rights of the individuals involved and must provide for each investigation:

- (1) when it was opened;
- (2) the process that remains to be completed; and
- (3) the likely timing for resolution of the investigation.

Section 2. Interim study of POST council. (1) The law and justice interim committee established in 5-5-226 shall study the public safety officer standards and training council established in 2-15-2029 during the 2023-2024 interim. The study shall:

- (a) examine the legislative history of the council's structure, staffing, and duties;
- (b) review the current structure, staffing, and duties of the council;
- (c) compare the council's current structure and administrative attachment to similar entities in other states; and
- (d) provide recommendations to the 69th legislature for how the council should be structured and staffed.

(2) The law and justice interim committee shall consult with council members, council staff, the department of justice, local law enforcement agencies, and other stakeholders the committee considers necessary.

(3) All aspects of the study must be concluded by September 15, 2024. Final results of the study must be reported to the 69th legislature.

Section 3. Section 44-10-204, MCA, is amended to read:

"44-10-204. Department of justice account established. (1) There is an account in the state special revenue fund to be used by the department of justice on behalf of the Montana law enforcement academy; established in 44-10-103 and the Montana public safety officer standards and training council established in 2-15-2029.

Bill Draft Number: LC3745
Bill Type - Number: HB 689
Short Title: Revise probation/parole supervision laws
Primary Sponsor: Lola Sheldon-Galloway (R) HD 22
Chapter Number: 530

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 53

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	05/19/2023			
(H) Signed by Governor	05/18/2023			
(H) Transmitted to Governor	05/08/2023			
(S) Signed by President	05/04/2023			
(H) Signed by Speaker	05/04/2023			
(C) Printed - Enrolled Version Available	05/01/2023			
(H) Returned from Enrolling	05/01/2023			
(H) Sent to Enrolling	04/26/2023			
(H) 3rd Reading Passed as Amended by Senate	04/26/2023	70	29	
(H) Scheduled for 3rd Reading	04/26/2023			
(H) 2nd Reading Senate Amendments Concurred	04/24/2023	70	29	
(H) Scheduled for 2nd Reading	04/24/2023			
(S) Returned to House with Amendments	04/12/2023			
(S) 3rd Reading Concurred	04/11/2023	35	15	
(S) Scheduled for 3rd Reading	04/11/2023			
(S) 2nd Reading Concurred	04/07/2023	36	14	
(S) Scheduled for 2nd Reading	04/07/2023			
(S) Committee Report--Bill Concurred as Amended	03/31/2023			(S) Judiciary
(C) Printed - New Version Available	03/31/2023			
(S) Committee Executive Action--Bill Concurred as Amended	03/29/2023	7	4	(S) Judiciary
(C) Amendments Available	03/24/2023			
(S) Hearing	03/22/2023			(S) Judiciary
(H) Fiscal Note Printed	03/16/2023			
(H) Fiscal Note Signed	03/16/2023			
(H) Fiscal Note Received	03/16/2023			
(S) Referred to Committee	03/13/2023			(S) Judiciary
(H) Fiscal Note Requested	03/10/2023			
(S) First Reading	03/09/2023			
(H) Transmitted to Senate	03/03/2023			
(H) 3rd Reading Passed	03/03/2023	60	38	
(H) 2nd Reading Passed	03/02/2023	51	48	
(H) Committee Report--Bill Passed	02/28/2023			(H) Judiciary
(H) Committee Executive Action--Bill Passed	02/28/2023	10	9	(H) Judiciary

(H) Hearing	02/27/2023	(H) Judiciary
(H) First Reading	02/21/2023	
(H) Referred to Committee	02/21/2023	(H) Judiciary
(C) Introduced Bill Text Available Electronically	02/21/2023	
(H) Introduced	02/20/2023	
(C) Draft Delivered to Requester	02/20/2023	
(C) Draft Ready for Delivery	02/20/2023	
(C) Executive Director Final Review	02/20/2023	
(C) Draft Ready for Delivery	02/20/2023	
(C) Draft in Assembly	02/19/2023	
(C) Executive Director Review	02/19/2023	
(C) Bill Draft Text Available Electronically	02/19/2023	
(C) Draft in Final Drafter Review	02/19/2023	
(C) Draft in Input/Proofing	02/19/2023	
(C) Draft to Drafter - Edit Review	02/18/2023	
(C) Draft in Edit	02/16/2023	
(C) Draft in Legal Review	02/15/2023	
(C) Draft to Requester for Review	02/10/2023	
(C) Draft to Requester for Review	02/09/2023	
(C) Draft Request Received	12/11/2022	

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Sheldon-Galloway	Lola
Drafter	Burkhardt	Julianne
Primary Sponsor	Sheldon-Galloway	Lola

Subjects

Description	Revenue/Approp. Vote Majority Req.	Subject Code
Corrections	Simple	CORR
Criminal Procedure (see also: Law Enforcement)	Simple	CRP

Additional Bill Information

Fiscal Note Probable: No
Preintroduction Required: N
Session Law Ch. Number: 530
DEADLINE
Category: General Bills

Transmittal Date: 03/03/2023

Return (with 2nd house amendments) Date: 04/18/2023

Section Effective Dates

Section(s) Effective Date Date Qualified

All Sections 01-OCT-23



AN ACT REVISING LAWS RELATED TO PROBATION AND PAROLE; ELIMINATING THE REQUIREMENT TO USE COMPLIANCE OR NONCOMPLIANCE VIOLATIONS IN REQUESTS TO REVOKE PROBATION; AND AMENDING SECTION 46-18-203, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-18-203, MCA, is amended to read:

"46-18-203. Revocation of suspended or deferred sentence. (1) Upon the filing of a petition for revocation showing probable cause that the offender has violated any condition of a sentence, any condition of a deferred imposition of sentence, or any condition of supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4), ~~and describing the exhaustion and documentation in the offender's file of appropriate violation responses according to the incentives and interventions grid adopted under 46-23-1028,~~ the judge may issue an order for a hearing on revocation. The order must require the offender to appear at a specified time and place for the hearing and be served by delivering a copy of the petition and order to the offender personally. The judge may also issue an arrest warrant directing any peace officer or a probation and parole officer to arrest the offender and bring the offender before the court.

(2) The petition for a revocation must be filed with the sentencing court either before the period of suspension or deferral has begun or during the period of suspension or deferral but not after the period has expired. Expiration of the period of suspension or deferral after the petition is filed does not deprive the court of its jurisdiction to rule on the petition.

(3) The provisions pertaining to bail, as set forth in Title 46, chapter 9, are applicable to persons arrested pursuant to this section.

(4) Without unnecessary delay and no more than 60 days after arrest, the offender must be

brought before the judge, and at least 10 days prior to the hearing the offender must be advised of:

- (a) the allegations of the petition;
- (b) the opportunity to appear and to present evidence in the offender's own behalf;
- (c) the opportunity to question adverse witnesses; and
- (d) the right to be represented by counsel at the revocation hearing pursuant to Title 46, chapter 8,

part 1.

(5) A hearing is required before a suspended or deferred sentence can be revoked or the terms or conditions of the sentence can be modified unless:

- (a) the offender admits the allegations and waives the right to a hearing; or
- (b) the relief to be granted is favorable to the offender and the prosecutor, after having been given notice of the proposed relief and a reasonable opportunity to object, has not objected. An extension of the term of probation is not favorable to the offender for the purposes of this subsection (5)(b).

(6) (a) At the hearing, the prosecution shall prove, by a preponderance of the evidence, that there has been a violation of:

- (i) the terms and conditions of the suspended or deferred sentence; or
- (ii) a condition of supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4).

(b) However, when a failure to pay restitution is the basis for the petition, the offender may excuse the violation by showing sufficient evidence that the failure to pay restitution was not attributable to a failure on the offender's part to make a good faith effort to obtain sufficient means to make the restitution payments as ordered.

(7) (a) If the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence ~~and the violation is not a compliance violation~~ by committing either compliance violations, noncompliance violations, or both, the judge may:

- (i) continue the suspended or deferred sentence without a change in conditions;
- (ii) continue the suspended sentence with modified or additional terms and conditions, which may include placement in:

- (A) a secure facility designated by the department for up to 9 months; or

(B) a community corrections facility or program designated by the department for up to 9 months, including but not limited to placement in a prerelease center, sanction or hold bed, transitional living program, enhanced supervision program, relapse intervention bed, chemical dependency treatment, or 24/7 sobriety program;

(iii) revoke the suspension of sentence and require the offender to serve either the sentence imposed or any sentence that could have been imposed that does not include a longer imprisonment or commitment term than the original sentence; or

(iv) if the sentence was deferred, impose any sentence that might have been originally imposed.

(b) If a suspended or deferred sentence is revoked, the judge shall consider any elapsed time, consult the records and recollection of the probation and parole officer, and allow all of the elapsed time served without any record or recollection of violations as a credit against the sentence. If the judge determines that elapsed time should not be credited, the judge shall state the reasons for the determination in the order. Credit must be allowed for time served in a detention center or for home arrest time already served.

(c) If the judge finds that the offender has not violated a term or condition of a suspended or deferred sentence, the judge is not prevented from setting, modifying, or adding conditions of probation as provided in 46-23-1011.

~~(8) (a) Except as provided in subsection (8)(c), if the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence, that the violation is a compliance violation, and that the appropriate violation responses under the incentives and interventions grid have not been exhausted and documented in the offender's file, the judge shall notify the department and refer the matter back to the hearings officer.~~

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~~(ii) continue the suspended or deferred sentence with modified or additional terms and conditions, which may include placement as provided in subsection (7)(a)(ii).~~

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~~(9)(8)~~ If the judge finds that the prosecution has not proved, by a preponderance of the evidence, that there has been a violation of the terms and conditions of the suspended or deferred sentence, the petition must be dismissed and the offender, if in custody, must be immediately released.

~~(10)(9)~~ All sanction and placement decisions must be documented in the offender's file.

~~(11)(10)~~ As used in this section, the following definitions apply:

~~(a) "Absconding"~~

~~(a) "absconding" means when an offender deliberately makes the offender's whereabouts unknown to a probation and parole officer or fails to report for the purposes of avoiding supervision, and reasonable efforts by the probation and parole officer to locate the offender have been unsuccessful; and~~

~~(b) "Compliance violation" means a violation of the conditions of supervision that is not:~~

~~(i) a new criminal offense;~~

~~(ii) possession of a firearm in violation of a condition of probation;~~

~~(iii) behavior by the offender or any person acting at the offender's direction that could be considered stalking, harassing, or threatening the victim of the offense or a member of the victim's immediate family or support network;~~

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~~(v) failure to enroll in or complete a required sex offender treatment program or a treatment program designed to treat violent offenders.~~

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~~(12)~~(11) The provisions of this section apply to any offender whose suspended or deferred sentence is subject to revocation regardless of the date of the offender's conviction and regardless of the terms and conditions of the offender's original sentence."

- END -

I hereby certify that the within bill,
HB 689, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2023.

President of the Senate

Signed this _____ day
of _____, 2023.

HOUSE BILL NO. 689

INTRODUCED BY L. SHELDON-GALLOWAY

AN ACT REVISING LAWS RELATED TO PROBATION AND PAROLE; ELIMINATING THE REQUIREMENT TO USE COMPLIANCE OR NONCOMPLIANCE VIOLATIONS IN REQUESTS TO REVOKE PROBATION; AND AMENDING SECTION 46-18-203, MCA.

HOUSE BILL NO. 689

INTRODUCED BY L. SHELDON-GALLOWAY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO PROBATION AND PAROLE;
ELIMINATING THE USE OF COMPLIANCE OR NONCOMPLIANCE VIOLATIONS IN REQUESTS TO
REVOKE PROBATION; AND AMENDING SECTION 46-18-203, MCA."

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(3) The provisions pertaining to bail, as set forth in Title 46, chapter 9, are applicable to persons arrested pursuant to this section.

(4) Without unnecessary delay and no more than 60 days after arrest, the offender must be brought before the judge, and at least 10 days prior to the hearing the offender must be advised of:

- 1 (a) the allegations of the petition;
- 2 (b) the opportunity to appear and to present evidence in the offender's own behalf;
- 3 (c) the opportunity to question adverse witnesses; and
- 4 (d) the right to be represented by counsel at the revocation hearing pursuant to Title 46, chapter 8,
- 5 part 1.

6 (5) A hearing is required before a suspended or deferred sentence can be revoked or the terms or

7 conditions of the sentence can be modified unless:

8 (a) the offender admits the allegations and waives the right to a hearing; or

9 (b) the relief to be granted is favorable to the offender and the prosecutor, after having been given

10 notice of the proposed relief and a reasonable opportunity to object, has not objected. An extension of the term

11 of probation is not favorable to the offender for the purposes of this subsection (5)(b).

12 (6) (a) At the hearing, the prosecution shall prove, by a preponderance of the evidence, that there

13 has been a violation of:

14 (i) the terms and conditions of the suspended or deferred sentence; or

15 (ii) a condition of supervision after release from imprisonment imposed pursuant to 45-5-503(4),

16 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4).

17 (b) However, when a failure to pay restitution is the basis for the petition, the offender may excuse

18 the violation by showing sufficient evidence that the failure to pay restitution was not attributable to a failure on

19 the offender's part to make a good faith effort to obtain sufficient means to make the restitution payments as

20 ordered.

21 (7) (a) If the judge finds that the offender has violated the terms and conditions of the suspended

22 or deferred sentence ~~and the violation is not a compliance violation~~, the judge may:

23 (i) continue the suspended or deferred sentence without a change in conditions;

24 (ii) continue the suspended sentence with modified or additional terms and conditions, which may

25 include placement in:

26 (A) a secure facility designated by the department for up to 9 months; or

27 (B) a community corrections facility or program designated by the department for up to 9 months,

28 including but not limited to placement in a prerelease center, sanction or hold bed, transitional living program,

enhanced supervision program, relapse intervention bed, chemical dependency treatment, or 24/7 sobriety program;

(iii) revoke the suspension of sentence and require the offender to serve either the sentence imposed or any sentence that could have been imposed that does not include a longer imprisonment or commitment term than the original sentence; or

(iv) if the sentence was deferred, impose any sentence that might have been originally imposed.

(b) If a suspended or deferred sentence is revoked, the judge shall consider any elapsed time, consult the records and recollection of the probation and parole officer, and allow all of the elapsed time served without any record or recollection of violations as a credit against the sentence. If the judge determines that elapsed time should not be credited, the judge shall state the reasons for the determination in the order. Credit must be allowed for time served in a detention center or for home arrest time already served.

(c) If the judge finds that the offender has not violated a term or condition of a suspended or deferred sentence, the judge is not prevented from setting, modifying, or adding conditions of probation as provided in 46-23-1011.

~~(8)(a) Except as provided in subsection (8)(c), if the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence, that the violation is a compliance violation, and that the appropriate violation responses under the incentives and interventions grid have not been exhausted and documented in the offender's file, the judge shall notify the department and refer the matter back to the hearings officer.~~

~~(b) Except as provided in subsection (8)(c), if the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence, that the violation is a compliance violation, and that the appropriate violation responses under the incentives and interventions grid have been exhausted and documented in the offender's file, the judge may:~~

~~(i) continue the suspended or deferred sentence without a change in conditions; or~~

~~(ii) continue the suspended or deferred sentence with modified or additional terms and conditions, which may include placement as provided in subsection (7)(a)(ii).~~

~~(c) If the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence, that the violation is a compliance violation, and that the offender's conduct indicates that the~~

1 offender will not be responsive to further efforts under the incentives and interventions grid, the judge may
2 sentence the offender as provided in subsection (7).

3 ~~(9)~~(8) If the judge finds that the prosecution has not proved, by a preponderance of the evidence, that
4 there has been a violation of the terms and conditions of the suspended or deferred sentence, the petition must
5 be dismissed and the offender, if in custody, must be immediately released.

6 ~~(10)~~(9) All sanction and placement decisions must be documented in the offender's file.

7 ~~(11)~~(10) As used in this section, the following definitions apply:

8 (a) ~~"Absconding"~~ "absconding" means when an offender deliberately makes the offender's
9 whereabouts unknown to a probation and parole officer or fails to report for the purposes of avoiding
10 supervision, and reasonable efforts by the probation and parole officer to locate the offender have been
11 unsuccessful.

12 ~~(b) "Compliance violation" means a violation of the conditions of supervision that is not:~~

13 ~~(i) a new criminal offense;~~

14 ~~(ii) possession of a firearm in violation of a condition of probation;~~

15 ~~(iii) behavior by the offender or any person acting at the offender's direction that could be considered~~
16 ~~stalking, harassing, or threatening the victim of the offense or a member of the victim's immediate family or~~
17 ~~support network;~~

18 ~~(iv) absconding; or~~

19 ~~(v) failure to enroll in or complete a required sex offender treatment program or a treatment program~~
20 ~~designed to treat violent offenders.~~

21 ~~(12)~~(11) The provisions of this section apply to any offender whose suspended or deferred sentence is
22 subject to revocation regardless of the date of the offender's conviction and regardless of the terms and
23 conditions of the offender's original sentence."

24 - END -

HOUSE BILL NO. 689

INTRODUCED BY L. SHELDON-GALLOWAY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO PROBATION AND PAROLE;
ELIMINATING THE REQUIREMENT TO USE ~~OF~~ COMPLIANCE OR NONCOMPLIANCE VIOLATIONS IN
REQUESTS TO REVOKE PROBATION; AND AMENDING SECTION 46-18-203, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-18-203, MCA, is amended to read:

"46-18-203. Revocation of suspended or deferred sentence. (1) Upon the filing of a petition for
revocation showing probable cause that the offender has violated any condition of a sentence, any condition of
a deferred imposition of sentence, or any condition of supervision after release from imprisonment imposed
pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4), ~~and describing~~
~~the exhaustion and documentation in the offender's file of appropriate violation responses according to the~~
~~incentives and interventions grid adopted under 46-23-1028,~~ the judge may issue an order for a hearing on
revocation. The order must require the offender to appear at a specified time and place for the hearing and be
served by delivering a copy of the petition and order to the offender personally. The judge may also issue an
arrest warrant directing any peace officer or a probation and parole officer to arrest the offender and bring the
offender before the court.

(2) The petition for a revocation must be filed with the sentencing court either before the period of
suspension or deferral has begun or during the period of suspension or deferral but not after the period has
expired. Expiration of the period of suspension or deferral after the petition is filed does not deprive the court of
its jurisdiction to rule on the petition.

(3) The provisions pertaining to bail, as set forth in Title 46, chapter 9, are applicable to persons
arrested pursuant to this section.

(4) Without unnecessary delay and no more than 60 days after arrest, the offender must be
brought before the judge, and at least 10 days prior to the hearing the offender must be advised of:

- 1 (a) the allegations of the petition;
2 (b) the opportunity to appear and to present evidence in the offender's own behalf;
3 (c) the opportunity to question adverse witnesses; and
4 (d) the right to be represented by counsel at the revocation hearing pursuant to Title 46, chapter 8,
5 part 1.

6 (5) A hearing is required before a suspended or deferred sentence can be revoked or the terms or
7 conditions of the sentence can be modified unless:

- 8 (a) the offender admits the allegations and waives the right to a hearing; or
9 (b) the relief to be granted is favorable to the offender and the prosecutor, after having been given
10 notice of the proposed relief and a reasonable opportunity to object, has not objected. An extension of the term
11 of probation is not favorable to the offender for the purposes of this subsection (5)(b).

12 (6) (a) At the hearing, the prosecution shall prove, by a preponderance of the evidence, that there
13 has been a violation of:

- 14 (i) the terms and conditions of the suspended or deferred sentence; or
15 (ii) a condition of supervision after release from imprisonment imposed pursuant to 45-5-503(4),
16 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4).

17 (b) However, when a failure to pay restitution is the basis for the petition, the offender may excuse
18 the violation by showing sufficient evidence that the failure to pay restitution was not attributable to a failure on
19 the offender's part to make a good faith effort to obtain sufficient means to make the restitution payments as
20 ordered.

21 (7) (a) If the judge finds that the offender has violated the terms and conditions of the suspended
22 or deferred sentence ~~and the violation is not a compliance violation~~ BY COMMITTING EITHER COMPLIANCE
23 VIOLATIONS, NONCOMPLIANCE VIOLATIONS, OR BOTH, the judge may:

- 24 (i) continue the suspended or deferred sentence without a change in conditions;
25 (ii) continue the suspended sentence with modified or additional terms and conditions, which may
26 include placement in:
27 (A) a secure facility designated by the department for up to 9 months; or
28 (B) a community corrections facility or program designated by the department for up to 9 months,

including but not limited to placement in a prerelease center, sanction or hold bed, transitional living program, enhanced supervision program, relapse intervention bed, chemical dependency treatment, or 24/7 sobriety program;

(iii) revoke the suspension of sentence and require the offender to serve either the sentence imposed or any sentence that could have been imposed that does not include a longer imprisonment or commitment term than the original sentence; or

(iv) if the sentence was deferred, impose any sentence that might have been originally imposed.

(b) If a suspended or deferred sentence is revoked, the judge shall consider any elapsed time, consult the records and recollection of the probation and parole officer, and allow all of the elapsed time served without any record or recollection of violations as a credit against the sentence. If the judge determines that elapsed time should not be credited, the judge shall state the reasons for the determination in the order. Credit must be allowed for time served in a detention center or for home arrest time already served.

(c) If the judge finds that the offender has not violated a term or condition of a suspended or deferred sentence, the judge is not prevented from setting, modifying, or adding conditions of probation as provided in 46-23-1011.

~~(8) (a) Except as provided in subsection (8)(c), if the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence, that the violation is a compliance violation, and that the appropriate violation responses under the incentives and interventions grid have not been exhausted and documented in the offender's file, the judge shall notify the department and refer the matter back to the hearings officer.~~

~~(b) Except as provided in subsection (8)(c), if the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence, that the violation is a compliance violation, and that the appropriate violation responses under the incentives and interventions grid have been exhausted and documented in the offender's file, the judge may:~~

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~~(ii) continue the suspended or deferred sentence with modified or additional terms and conditions, which may include placement as provided in subsection (7)(a)(ii).~~

~~(c) If the judge finds that the offender has violated the terms and conditions of the suspended or~~

deferred sentence, that the violation is a compliance violation, and that the offender's conduct indicates that the offender will not be responsive to further efforts under the incentives and interventions grid, the judge may sentence the offender as provided in subsection (7).

(9)(8) If the judge finds that the prosecution has not proved, by a preponderance of the evidence, that there has been a violation of the terms and conditions of the suspended or deferred sentence, the petition must be dismissed and the offender, if in custody, must be immediately released.

(10)(9) All sanction and placement decisions must be documented in the offender's file.

(11)(10) As used in this section, the following definitions apply:

(a) "Absconding"

(A) "absconding" means when an offender deliberately makes the offender's whereabouts unknown to a probation and parole officer or fails to report for the purposes of avoiding supervision, and reasonable efforts by the probation and parole officer to locate the offender have been unsuccessful; AND

(b) "Compliance violation" means a violation of the conditions of supervision that is not:

(i) a new criminal offense;

(ii) possession of a firearm in violation of a condition of probation;

(iii) behavior by the offender or any person acting at the offender's direction that could be considered stalking, harassing, or threatening the victim of the offense or a member of the victim's immediate family or support network;

(iv) absconding; or

(v) failure to enroll in or complete a required sex offender treatment program or a treatment program designed to treat violent offenders.

(B) "COMPLIANCE VIOLATION" MEANS A VIOLATION OF THE CONDITIONS OF SUPERVISION THAT IS NOT:

(I) A NEW CRIMINAL OFFENSE;

(II) POSSESSION OF A FIREARM IN VIOLATION OF A CONDITION OF PROBATION;

(III) BEHAVIOR BY THE OFFENDER OR ANY PERSON ACTING AT THE OFFENDER'S DIRECTION THAT COULD BE CONSIDERED STALKING, HARASSING, OR THREATENING THE VICTIM OF THE OFFENSE OR A MEMBER OF THE VICTIM'S IMMEDIATE FAMILY OR SUPPORT NETWORK;

(IV) ABSCONDING; OR

1 (V) FAILURE TO ENROLL IN OR COMPLETE A REQUIRED SEX OFFENDER TREATMENT PROGRAM OR A
2 TREATMENT PROGRAM DESIGNED TO TREAT VIOLENT OFFENDERS.

3 ~~(12)~~(11) The provisions of this section apply to any offender whose suspended or deferred sentence is
4 subject to revocation regardless of the date of the offender's conviction and regardless of the terms and
5 conditions of the offender's original sentence."

6 - END -



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:

HB0689 - Revise probation/parole supervision laws (Sheldon-Galloway, Lola)

Status: As Introduced

- | | | |
|---|--|--|
| ☐ Significant Local Gov Impact | ☐ Needs to be included in HB 2 | ☒ Technical Concerns |
| ☐ Included in the Executive Budget | ☐ Significant Long-Term Impacts | ☐ Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	\$0	\$0	\$0	\$0

Description of fiscal impact: HB 689 eliminates those provisions of 46-18-203, MCA, related to the requirement to document exhaustion of the Montana Interventions and Incentives Grid (MIIG) before filing a report of violation. The bill removes the requirement of the probation officer's documentation of the exhaustion of appropriate violation responses under the MIIG as a part of the district court proceeding on the revocation of a probationary sentence. These changes would impact the documentation required in the court proceeding but would not otherwise impact Probation and Parole (P&P) supervision or operations. This bill will have no fiscal impact to the Department of Corrections (DoC).

FISCAL ANALYSIS

Technical Notes:

- The elimination of compliance vs non-compliance language will have the effect of limiting the DoC's ability to collect the related data that has been requested by various legislative bodies and inquiries.

Lng

Sponsor's Initials

3/16/23

Date

[Signature]

Budget Director's Initials

3-15-23

Date

HOUSE BILL NO. 689

INTRODUCED BY L. SHELDON-GALLOWAY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO PROBATION AND PAROLE;
ELIMINATING THE REQUIREMENT TO USE ~~OF~~ COMPLIANCE OR NONCOMPLIANCE VIOLATIONS IN
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Section 1. Section 46-18-203, MCA, is amended to read:

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(2) The petition for a revocation must be filed with the sentencing court either before the period of suspension or deferral has begun or during the period of suspension or deferral but not after the period has expired. Expiration of the period of suspension or deferral after the petition is filed does not deprive the court of its jurisdiction to rule on the petition.

(3) The provisions pertaining to bail, as set forth in Title 46, chapter 9, are applicable to persons arrested pursuant to this section.

(4) Without unnecessary delay and no more than 60 days after arrest, the offender must be brought before the judge, and at least 10 days prior to the hearing the offender must be advised of:

- 1 (a) the allegations of the petition;
- 2 (b) the opportunity to appear and to present evidence in the offender's own behalf;
- 3 (c) the opportunity to question adverse witnesses; and
- 4 (d) the right to be represented by counsel at the revocation hearing pursuant to Title 46, chapter 8,
- 5 part 1.

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7 conditions of the sentence can be modified unless:

- 8 (a) the offender admits the allegations and waives the right to a hearing; or
- 9 (b) the relief to be granted is favorable to the offender and the prosecutor, after having been given
- 10 notice of the proposed relief and a reasonable opportunity to object, has not objected. An extension of the term
- 11 of probation is not favorable to the offender for the purposes of this subsection (5)(b).

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17 (b) However, when a failure to pay restitution is the basis for the petition, the offender may excuse

18 the violation by showing sufficient evidence that the failure to pay restitution was not attributable to a failure on

19 the offender's part to make a good faith effort to obtain sufficient means to make the restitution payments as

20 ordered.

21 (7) (a) If the judge finds that the offender has violated the terms and conditions of the suspended

22 or deferred sentence ~~and the violation is not a compliance violation~~ by committing either compliance violations,

23 noncompliance violations, or both, the judge may:

- 24 (i) continue the suspended or deferred sentence without a change in conditions;
- 25 (ii) continue the suspended sentence with modified or additional terms and conditions, which may
- 26 include placement in:
- 27 (A) a secure facility designated by the department for up to 9 months; or
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including but not limited to placement in a prerelease center, sanction or hold bed, transitional living program, enhanced supervision program, relapse intervention bed, chemical dependency treatment, or 24/7 sobriety program;

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(c) If the judge finds that the offender has not violated a term or condition of a suspended or deferred sentence, the judge is not prevented from setting, modifying, or adding conditions of probation as provided in 46-23-1011.

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15 (ii) possession of a firearm in violation of a condition of probation;

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17 stalking, harassing, or threatening the victim of the offense or a member of the victim's immediate family or
18 support network;

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21 designed to treat violent offenders.

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27 family or support network;

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- 2023

Drafter: Julianne Burkhardt, 406-444-4025

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INTRODUCED BY L. SHELDON-GALLOWAY

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(2) The petition for a revocation must be filed with the sentencing court either before the period of suspension or deferral has begun or during the period of suspension or deferral but not after the period has expired. Expiration of the period of suspension or deferral after the petition is filed does not deprive the court of its jurisdiction to rule on the petition.

(3) The provisions pertaining to bail, as set forth in Title 46, chapter 9, are applicable to persons arrested pursuant to this section.

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- 2023

HB0689.001.001

6 - END -



**Legislative
Services
Division**